

EXHIBIT C

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

CYNTHIA RUSSO, LISA BULLARD,)
RICARDO GONZALES, INTERNATIONAL)
BROTHERHOOD OF ELECTRICAL WORKERS)
LOCAL 38 HEALTH AND WELFARE FUND,)
INTERNATIONAL UNION OF OPERATING)
ENGINEERS LOCAL 295-295C WELFARE)
FUND, AND STEAMFITTERS FUND LOCAL)
439, on Behalf of Themselves and)
All Others Similarly Situated,)
)
Plaintiffs,)
)
vs.) Case No.
) 17-cv-2246
WALGREEN CO.,)
)
Defendant.)
)

VIDEO-RECORDED REMOTE DEPOSITION OF

LYNETTE HILTON, Ph.D.

Tuesday, January 17, 2023

Volume I

*** CONFIDENTIAL PURSUANT TO PROTECTIVE ORDER ***

Reported by:

CARLA SOARES

CSR No. 5908

Job No. 5645367

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1 generic prescription drugs from Walgreens? 17:22:12

2 MR. ALEXANDER: Objection to form.

3 THE WITNESS: For example, the PBM could
4 pay Walgreens for a prescription, and the TPP would
5 reimburse the PBM for that amount. 17:22:15

6 BY MR. LEIB:

7 Q Is that a real-world situation that
8 occurs?

9 MR. ALEXANDER: Objection to form.

10 THE WITNESS: It is my understanding that 17:22:18
11 that can occur, yes.

12 BY MR. LEIB:

13 Q In what situations can that occur?

14 MR. ALEXANDER: Objection to form.

15 Objection to scope. 17:22:21

16 THE WITNESS: The example that I just gave
17 where a PBM would be paying the pharmacy, and then
18 the TPP would be paying the PBM.

19 BY MR. LEIB:

20 Q Do you know the terms "spread pricing" and 17:22:24
21 "pass-through pricing"?

22 A I have heard those terms, yes.

23 Q Are you referring -- in your example, are
24 you referring to one of those situations?

25 A I wasn't intending to. I suppose that 17:22:28

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1 in part, for generic prescription drugs from 17:22:48
2 Walgreens?

3 A I'm sorry. Could you repeat that? Did
4 you say "person or entity"?

5 Q Yes. Are you aware of any other examples 17:22:51
6 of a person or entity who reimbursed, in whole or in
7 part, for generic prescription drugs from Walgreens?

8 A Examples other than consumers and TPPs
9 that we just discussed?

10 Q I don't think you talked about consumers. 17:22:56
11 I think you talked about, in your answer, the TPP
12 paying the PBM.

13 Did I misunderstand?

14 A Well, I think you -- unless I
15 misunderstood what you said -- did you change the 17:23:00
16 question to who paid or reimbursed?

17 Q No. I'm just asking reimbursed.
18 Situations in which a person or entity reimbursed,
19 in whole or in part, for generic prescription drugs
20 from Walgreens. 17:23:05

21 A Okay.

22 Q You gave me one example you could think of
23 of that type of a situation. I'm asking you if you
24 have any other examples that you can think of where
25 that would happen. 17:23:09

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1 A I see. No. 17:23:10

2 Q And did you consider the term "or
3 reimbursed" in your methodology in any way?

4 A No, I don't think so.

5 Q And then it says -- after it talks about 17:23:14
6 the time period, January 1st through the present,
7 and the states that we've already referred to, it
8 says, "where the usual and customary price was a
9 basis for the amount paid or reimbursed in
10 connection with the purchase of such drug." 17:23:19

11 Do you see that?

12 A Yes.

13 Q So if the U&C price was not the basis of
14 the amount paid or reimbursed, would that
15 transaction be excluded from your analysis of who's 17:23:23
16 in the class?

17 MR. ALEXANDER: Objection to form.

18 THE WITNESS: Yeah. Can you repeat that
19 question? Because I'm not sure --

20 BY MR. LEIB: 17:23:27

21 Q Sure. I'm going to break it up a little
22 bit.

23 A Yeah. Okay.

24 Q To determine if a person or an entity for
25 whom prescription drug benefits were provided 17:23:30

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1 through those eight PBMs who we're defining as the 17:23:30
2 relevant PBMs -- is that correct? Does "relevant
3 PBM" make sense to you?

4 A Yes.

5 Q Okay. If -- to determine who the persons 17:23:34
6 or entities for whom prescription drug insurance
7 benefits were provided through those relevant PBMs,
8 and who paid or reimbursed, in whole or in part, for
9 generic prescription drugs from Walgreens, where the
10 usual and customary price was a basis for the amount 17:23:38
11 paid or reimbursed in connection with the purchase
12 of such drug, you need to look at -- you need to
13 determine if there were any transactions where the
14 person or entity had that situation, correct?

15 A I think that's correct. 17:23:44

16 Q And in looking at those transactions to
17 decide if somebody is in the class, if the U&C price
18 was not a basis for the amount a person or entity
19 paid or reimbursed, then would you exclude that
20 transaction from your analysis?

21 MR. ALEXANDER: Objection to form.

22 MR. LEIB: I'm going to change it very
23 slightly.

24 Q In looking at those transactions to decide
25 if somebody is in the class, either a person or an 17:23:52

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1 entity, if the U&C price was not a basis for the 17:23:54
2 amount a person or entity paid or reimbursed, then
3 do you, in your methodology, exclude that
4 transaction from your analysis?

5 A I'm having a hard time answering the 17:23:58
6 question as asked.

7 Would you like me to ask a point of
8 clarification or do you want to --

9 Q I would.

10 A Okay. Are you asking whether that entity 17:24:01
11 paid the U&C price or whether it was one of the
12 factors determined -- or looked at when they were
13 determining the price?

14 Q I'm actually asking whether it was paid or
15 reimbursed. If the U&C price -- not whether it was 17:24:06
16 considered in determining was one of the factors, as
17 you say -- but whether it was paid according to U&C.

18 A Okay. I'm sorry. Can you ask the
19 question again now that I have that understanding?

20 Q In looking at those transactions to decide 17:24:13
21 if somebody is in the class, either a person or an
22 entity, if the U&C price was not a basis for the
23 amount a person or entity paid or reimbursed, then
24 do you, in your methodology, exclude that
25 transaction from your analysis? 17:24:19

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1 MR. ALEXANDER: Objection to form. 17:24:19

2 THE WITNESS: No.

3 BY MR. LEIB:

4 Q Tell me why not.

5 A So it's my understanding that I should be 17:24:21
6 including any transaction where U&C was considered.

7 Q As a possible basis for payment?

8 A That's right.

9 Q Okay. This definition doesn't say that,
10 though, does it? Would you agree with me on that? 17:24:25

11 MR. ALEXANDER: Objection to form.

12 THE WITNESS: I'm not sure I agree with
13 you on that.

14 BY MR. LEIB:

15 Q Well, would you agree that it says, "where 17:24:27
16 the usual and customary price was a basis for the
17 amount paid or reimbursed"?

18 A Yes, I see that.

19 Q Would you agree with me that it doesn't
20 say, "where the usual and customary price was a 17:24:31
21 consideration for the amount the person paid or
22 reimbursed"?

23 A It doesn't say the word "consideration."
24 I agree with you.

25 Q It doesn't say anything like 17:24:35

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1 And if the co-insurance was 25 percent, the TPP 18:27:09
2 would pay the PBM \$75, and the consumer would pay
3 Walgreens \$25; is that correct?

4 A That's my understanding, yes.

5 Q Is there a field that you look at to 18:27:13
6 determine whether an individual consumer had
7 co-payment versus co-insurance?

8 A I used the -- I calculated it myself.

9 So I looked at the consumer portion
10 divided by the total amount paid by the consumer and 18:27:16
11 the TPP for a given PBM in a given month.

12 And if 90 percent of those transactions
13 were the same percentage, then I assumed that it was
14 a co-insurance situation. Otherwise, it was a
15 co-payment situation. 18:27:23

16 Q So that's the number you used, 90 percent.
17 If 90 percent of the time it was the same
18 percentage, then you decided it was co-insurance?

19 A Yes. It's my understanding that there are
20 some variables in Walgreens' data that potentially 18:27:28
21 have information on that, and also that the PBMs
22 would have information on that.

25 Q What data were you looking at to determine 18:27:32

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1 | that? 18:27:33

2 A To determine what? Sorry.

3 Q Whether 90 percent had a certain
4 percentage.

5 A So I was looking at -- for the PBM data 18:27:36
6 merged onto the Walgreens data.

7 If the consumer payment from the Walgreens
8 data, the TPP payment from the PBM data, the sum of
9 those becomes the denominator, the consumer payment
10 is the numerator, and if that percentage is greater 18:27:41
11 than -- if I see that percentage is greater than
12 90 percent of the transactions for a given month for
13 a given PBM, then I assume that it's a co-pay --
14 excuse me -- co-insurance situation.

15 Q And if it was 89 percent of the time, you 18:27:48
16 would figure it was co-pay?

17 A Yes. That's the current methodology.

18 Q What are you looking at -- what are we
19 getting as the sum total that we're trying to find a
20 denominator for? How do we determine that
21 denominator? What are we looking at? Is it for an
22 individual?

23 So Bob Smith, we're looking at all Bob
24 Smith's transactions in a month?

25 A No. This is a transaction-by-transaction 18:27:57

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1 analysis.

18:27:58

2 Q Well, I thought you said to determine if
3 it's a co-insurance, you looked at a whole month.

4 A So for a given transaction, I would
5 calculate the consumer portion as a percentage of 18:28:01
6 the total amount paid, which is given by the TPP
7 payment plus the consumer payment. So that's on a
8 transaction-by-transaction -- I first do that.

9 Q Okay.

10 A Then for a given month, I look at all of 18:28:06
11 those transactions and determine whether most of the
12 transactions have that same 25 percent, for example.

13 Q What do you mean by "those transactions"?

14 A So first I start with the PBM
15 transactions, and I look at each transaction, 18:28:11
16 calculate the percentage that the consumer paid for
17 each transaction.

18 So do you have that in your mind?

19 Q That one I've got. The individual I've
20 got. 18:28:15

21 A Okay. Okay. So then, for every month,
22 let's say for month one, there are ten transactions.

23 Q Ten transactions for -- ten transactions
24 for --

25 MR. ALEXANDER: Please -- 18:28:19

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1 MR. LEIB: I understand. 18:28:20

2 Q Ten transactions for Bob Smith? Is that
3 what you're saying?

4 MR. ALEXANDER: Counsel, I would just ask,
5 please let the witness complete her answer in full 18:28:22
6 before asking the next question, even if it's to
7 clarify what she is testifying to.

8 BY MR. LEIB:

9 Q No, it's not just for Bob Smith.

10 So what are all the transactions that 18:28:25
11 you're looking at to decide if Bob Smith has a
12 co-pay or co-insurance?

13 A So I'm looking at -- again, this is the
14 PBM-produced data for the fund plaintiffs.

15 So I'm looking at, for a given PBM, for a 18:28:30
16 given month, all of the transactions in that month.
17 So these were the fund plaintiffs, right, for a
18 given PBM.

19 Q Well, you first said, "For a given PBM for
20 a given month." And then you said, "So these were 18:28:35
21 the fund plaintiffs," right?

22 So, look. Steamfitters -- which did have
23 co-insurance -- Steamfitters had a specific plan.
24 That plan provided that they had co-insurance.

25 Are you only looking at Steamfitters 18:28:40

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1 beneficiaries in that month, or are you looking at 18:28:41
2 all CastiaRx transactions in that month?

3 MR. ALEXANDER: Objection to form.

4 THE WITNESS: So I'm doing it by PBM. So
5 to answer your question, if I looked at -- I would 18:28:45
6 look at Castia transactions for month one for all
7 of -- all of the transactions in that month, and
8 determine if the majority, or more than the -- you
9 know, 90 percent, were the same percentage,
10 25 percent, 35 percent, whatever it is, then I would 18:28:50
11 identify that as a co-insurance situation.

12 That works with the data that I have here..

13 If I'm given more PBM data, my assumption is that
14 the PBM -- we would ask the PBM to turn over that
15 information that would allow me to identify whether 18:28:56
16 there was a co-insurance or co-pay situation.

17 BY MR. LEIB:

18 Q Before we get to if the PBM turns over
19 more data, you understand that CastiaRx administers
20 thousands of plans, right? 18:29:00

21 A I don't know that. It wouldn't surprise
22 me.

Q It would surprise you or wouldn't?

24 A Would not.

25 Q What about Express Scripts? You know 18:29:04

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1 I, the undersigned, a Certified Shorthand
2 Reporter of the State of California, do hereby
3 certify:

4 That the foregoing proceedings were taken
5 before me at the time and place herein set forth;
6 that any witnesses in the foregoing proceedings,
7 prior to testifying, were administered an oath; that
8 a record of the proceedings was made by me using
9 machine shorthand which was thereafter transcribed
10 under my direction; that the foregoing transcript is
11 a true record of the testimony given.

12 Further, that if the foregoing pertains to
13 the original transcript of a deposition in a Federal
14 Case, before completion of the proceedings, review
15 of the transcript [] was [x] was not requested.

16 I further certify I am neither financially
17 interested in the action nor a relative or employee
18 of any attorney or any party to this action.

19 IN WITNESS WHEREOF, I have this date
20 subscribed my name.

21
22 Dated: January 23, 2023

23 Carla Soares

24
25 CARLA SOARES
 CSR No. 5908